

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMIDA CAPITAL MANAGEMENT II,
LLC,

Plaintiff,

-against-

CERBERUS CAPITAL MANAGEMENT,
L.P.,

Defendant.

Case No. 1:08-CV-05516-MGC

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that upon the Complaint filed on June 18, 2008, the memorandum of law dated August 7, 2008, filed herewith, and the declaration of Robert C. Hora, subscribed August 7, 2008, filed herewith and the exhibits thereto, the undersigned attorneys for defendant Cerberus Capital Management, L.P. shall, on Thursday, September 4, 2008, at 9:30 a.m., move this Court before the Honorable Miriam Goldman Cedarbaum, United States District Judge, Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York 10007, pursuant to Fed. R. Civ. P. Rules 9(b) and 12(b)(6) and the Private Securities Litigation Reform Act of 1995 to dismiss the Complaint.

PLEASE TAKE FURTHER NOTICE that pursuant to the Court's individual rules, any opposition papers shall be served on or before noon on Wednesday, August 27, 2008

and any reply papers shall be served on or before noon on Tuesday, September 2, 2008.

Dated: August 7, 2008
New York, New York

MILBANK, TWEED, HADLEY & McCLOY LLP

By: /s/ Michael L. Hirschfeld
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CERTIFICATE OF SERVICE

I, Michael L. Hirschfeld, an attorney duly admitted to practice before the United States District Court for the Southern District of New York, certify that on August 7, 2008, a copy of the foregoing Notice of Motion to Dismiss was filed electronically. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Michael L. Hirschfeld

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